

Notice of Allowability

Application No.

10/715,985

Applicant(s)

FANGROW, THOMAS F.

Examiner

Andrew M. Gilbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Request for Continued Examination filed on 2/26/2007.
2. ☒ The allowed claim(s) is/are 1-22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 2/26/2007
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons

Andrew Gilbert
Andrew Gilbert
5/4/2007

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/26/2007 has been entered.

Acknowledgments

1. This office action is in response to the reply filed on 2/26/2007.
2. In the reply, the Applicant amended claims 1, 6, 7, 8, and 13 and added new claims 14-22.
3. Additionally, the Applicant submitted a Terminal Disclaimer that has been approved on 3/15/2007, thus all double patenting rejections have hereby been withdrawn.

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 2/26/2007 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Citation of Pertinent Prior Art

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6355021; 2004/0143216; 2004/0158207; 2005/0020972; 2005/0101910; 2005/0101933; 2005/0101932; 2005/0113761; 2006/0129090.

6. Additionally, the Examiner notes that during the telephonic interview conducted for the Examiner's Amendment the Applicant brought the prior art reference US Pat No. 5098397 (Svennson et al) to the attention of the Examiner. The Examiner subsequently has considered the reference and cited the record as pertinent prior art.

EXAMINER'S AMENDMENT

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Paul Conover on 5/4/2007.

The application has been amended as follows:

In claim 1, at ln 20 after "cap from the base"

--such that a foot disposed on the infusion cap extends radially inwardly farther than the outer radial periphery of the retaining rim-- has been inserted.

In claim 8, at ln 22 after "infusion cap being"

"adapted to rotate" has been deleted,

--configured to freely rotate-- has been inserted.

8. The following is an examiner's statement of reasons for allowance:

9. The subject matter of the independent claim could either not be found or was not suggested in the prior art of record. With respect to claim 1, the prior art does not disclose or render obvious the combination as claimed specifically including an infusion cap covering an infusion set base having an outer edge with a retaining rim, the cap being removably attached to the base at the retaining rim by a foot on the cap that extends radially inward farther than the outer radial periphery of the retaining rim to secure the cap to the base when engaged and the cap being adapted to rotate with respect to the base while engaged, in combination with the other elements of the claims.

10. With respect to claim 8, the prior art does not disclose or render obvious the combination as claimed specifically including an infusion cap covering and removably engaging an upper side of an infusion set base and being configured to freely rotate with respect to the base while engaged, in combination with the other elements of the claims.

11. Furthermore, with respect to claim 8, the primary reasons for allowance of instant application is the inclusion of the infusion cap being configured to freely rotate with respect to the base while engaged. The inclusion of this limitation overcomes the prior art reference of Bowman et al (2005/0101910) which limits the rotation of the infusion cap to a range of less than 360 degrees with respect to the base to prevent

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entanglement, twisting, kinking of the infusion tubing. The instant application's infusion cap being configured to freely rotate with respect to the base means that the infusion cap is configured to rotate without restriction in at least 360 degrees with respect to the base while engaged which is an unobvious differentiation in combination with the other elements of the claims over Bowman et al and the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Gilbert whose telephone number is (571) 272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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